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REMARKS ON 'EARLY KARAITE CRITICS OF THE MISHNAH'

UNDER the above title Hartwig Hirschfeld published and elucidated two Karaite manuscript texts in this REVIEW,¹ yet the title does not correspond exactly to the contents of the texts. The latter are not at all a criticism of the Mishnah, but rather Karaite attacks on the rabbinic construction of various legal precepts, such as we meet with in many other Karaite works. The Mishnah serves only as a substratum. To prove this assertion I propose to analyse these texts minutely.

I.

The first text, hitherto unknown, is particularly interesting, both on account of its contents and its form. It is a fragment of a Karaite anti-rabbinic polemic, in which the following points are argued :

(1) The invalidity of the *dehiyya* לֹא זָבֵר פֻּרִים (fol. 37), which is proved from the Mishnah Meg. I, 2-6, where it is expressly stated : חַל לֵהוּיֹת יוֹם יִזְדַּ בְּשָׁנִי . . . חַל לֵהוּיֹת . . . בְּרִבְעִי . . . חַל לֵהוּיֹת בַּשַּׁבָּת. Thus the very first point shows that we are not dealing here with a criticism of the Mishnah. Curiously enough, the Karaite author adduces also the continuation of the Mishnah, I, 7-9, which evidently has nothing to do with the subject.²

¹ *JQR.*, N. S., VIII, 157-88. Owing to the World War this part of the Quarterly reached me only recently.

² At the same time our author exhibits two omissions through homoioteleuton, namely, fol. 37 vo. at l. 7 : one line added by Hirschfeld after [בְּשָׁנִי וּבַחֲמִישִׁי אֲבָל מְקוֹם שֶׁאֵין נִכְנָסִין] (not [מִכְנִיסִין]), and at l. 8 : two lines after קוֹרְאִין אוֹתָהּ, which he failed to complete [אֲלֵא בּוֹמֵנָה]. [קִרְאוּ אֶת הַמִּגְלָה בְּאֹדֶר הָרִאשׁוֹן וְנִתְעַבְרָה הַשָּׁנָה קוֹרִין אוֹתָהּ]. These omissions may be due to the copyist, but if we accept with Hirschfeld that this is an autograph, then the author himself is responsible for them.

Then again : ובהלכות אומ' הקורא במגלה הכתובה בין הכתובים לא : יצא ידי חובתו ודוקא בצבור. As the source of this citation Hirschfeld indicates Talmud Meg. 12 b (should be 19 b), and believes that under הלכות our author means the Gemara (see further below). But in the Talmud this passage sounds differently : לא . . . הקורא . . . לא יצא, similarly in *Halakot Gedolot* : הקורא . . . לא יצא . . . והני מילא בצבורא. Thus the words ידי חובתו are wanting in both places, but they are extant in the *Halakot Pesukot* (ed. Schlossberg, p. 11), and the latter no doubt served our Karaite author as source.

The nullity of the *deḥiyya* פורים לא זב"ד פורים, identical with לא פסח, &c, on the basis of the Mishnah,³ occurs also among other Karaite writers, as e.g. Hadassi (*Eshkol Hakkofer*, alphabet 184, ש ff.): . . . כי פסחים יחולו בבד"ו שבפרקא : . . . מנלה אמר כשחל פורים בא' בשבת . . . כשחל פורים להיות בשני בשבת . . . וכן כשחל להיות בשלישי בשבת כן וכן ובחמישי ובששי בשבת כן וכן . . . מכיון שאפשר יום כפורים (הפורים. r.) לחול בכל ימי השבוע אף כן לעומתו יום הפסח יחול בכל ימי השבוע וכו'. Then in Aaron b. Elijah (*Gan Eden*, fol. 6 d) : אומרם מנלה נקראת : ביומה אשר הוא בי"ד באדר אמרו אם היה יום הראשון היה דתו כך וכך ואם היה יום השני היה דתו כך וכך וכולל כל ימי השבוע וזה סותר למאמר לא זב"ד פורים. In addition, these two authors, and especially Salmon b. Jeroham in his manuscript polemic against Saadya (chaps. 4-6), adduce a number of other passages from which results the voidness of the *deḥiyya*, namely, Mishnah Pes. VII, 10 : העצמות והגידין והנותר ישרפו בששה עשר חל ששה עשר להיות בשבת 4; Hag. II, 4 : עצרת שחל להיות בערב שבת . . . ומודים שאם חלה להיות בשבת : שיום טבוח אחר השבת וכו', hence the Feast of Weeks fell on

³ So the words of our author are to be understood (fol. 37 vo. end) : וכל ומהנה נבטלו לא דבר (זבד. r.) פורים וכל לא ו[ל]א, i.e. probably and, or something similar.

⁴ Comp. hereon the passages from Ḥananel b. Ḥushiel's commentary of Pesahim adduced by Geiger in *Jüd. Zeitschrift*, VI, 149, also Abraham b. Ḥiyya's ספר העבור, p. 59. In addition, with regard to all quotations here given, see *JQR.*, X, 271 f.

already Isaac b. Baruch refuted this view of Saadya, and pointed out among other things that in the Talmud the occurrence of Hoshana rabba on a Saturday is stated as a fact. This serves the Karaites as a pretext to attack Saadya as a despiser of his own teachers, the Talmudists.⁶

Our Karaite author, towards the end of the fragment preserved (fol. 36 vo.), reverts once more to the question of *dehiyya*, and proves the possibility of e.g. פסח בבר"י in a very peculiar way. Since the firmament was created on Monday, the luminaries on Wednesday, and the human pair on Friday, and since the first Passover celebrated in Egypt occurred on a Friday (see above), it follows that the Feast of Passover may fall on any one of these three days. It is difficult to find out what the creation of these objects has to do with the beginning of Passover. But here is still another extremely interesting passage : [וא]שר אמר ענין : כמזהם לא זאן פסח ולא אלף סוכה ו[דרחה ?] הפסח מיום השביעי והסוכה מהאחד וכו'. Thus 'Anan, the restorer of the lunar observation, agreed nevertheless with the Rabbis in their method and asserted that Passover can never fall on a Saturday nor the Feast of Tabernacles on a Sunday, while our author considers these two days feasible on the ground that the light was created on Sunday and that Saturday is a day to be kept holy.

Hirschfeld is quite helpless in the face of this passage, maintaining that he could find nothing of the kind in the extant fragments of 'Anan's book of Precepts, and he therefore proposes the emendation פסח לא ואו. Apparently he overlooked a fragment of 'Anan's book edited by Harkavy (*Stud. u. Mitt.*, VIII, 72) and myself (*REJ.*, XLV, 181) where it is expressly stated that when Passover falls on a Saturday the offering of the Paschal lamb is postponed to Saturday evening : ואם הל' ונודמן ערבא דפסחא בערבא דשבתא אסור לן ליכוס פסחא וחגיגה ביה בליליה . . . ושרי ליה ליגדחיה כמא דאי נודמן קורבנא דוב וובה . . . דוחין יתהון בתר יומא דשבתא הכי נמי דשרי ליגדחא קרבנא דפסחא די נודמנא

⁶ See Abraham b. Hiyya, *l.c.*, pp. 59-60, and *JQR.*, X, 271-2. In the same way Aaron b. Elijah (*Gan Eden*, fol. 5 b) סעדיא התל' לרבותיו וכו'.

בשבתא. According to 'Anan בין הערבים signifies 'after the setting of the sun', but the offering of the Paschal lamb does not set aside the Sabbath, as little as e. g. circumcision, which likewise, in case the eighth day occurs on a Saturday, is performed after sunset, for the term בין הערבים is construed both as part of the passing and part of the beginning day (Harkavy, *l.c.*, 77).⁷ 'Anan, it is true, speaks only of the postponement of the Paschal offering and not of the postponement of the Feast of Passover, but Kirkisani informs us about 'Anan distinctly (Sect. I, ed. Harkavy, p. 313, l. 16): ואזא וקע יום כמסה עשר פי ניסן יום אלסכת : 'and דפע אתכאד אלעיר אלי יום אלאחר אלדי הו יום סתה עשר 'and when the fifteenth of Nisan fell on a Saturday he postponed the Festival to Sunday, i. e. the sixteenth', hence also the Festival was postponed.

With regard to postponement of the Feast of Tabernacles, we read in Kirkisani immediately after the above-quoted words: 'and likewise with the Feast of Tabernacles', without specification as to the day and without further explanation and justification,⁸ but the latter may be obtained from later Karaite writings. What surprises us most is that 'Anan mentions the Feast of Tabernacles and not the New Year, which always falls on the same day; but here the following consideration is of importance. In Karaite literature search is made after a verse to justify the commandment about the building of a booth (for בסכות תשב only enjoins to dwell in tabernacles), and this was deduced from the verse ולקחתם לכם ביום הראשון, which, as is

⁷ For more details see my article in *REJ.*, *l.c.*, 176 ff.

⁸ Probably Kirkisani had this in the ninth section of his work, the section dealing with the holidays. In the sixth chapter of the first section (ed. Harkavy, p. 304, l. 5) Kirkisani says of the Sadducees that they did not count the Sabbath either on the Passover or on the Feast of Tabernacles, and that they grounded this proceeding on 1 Reg. 8. 66, where it is said that Solomon dismissed the people on the eighth day of the Feast. This day could be the 23rd of Tishri (see 2 Chron. 7. 10) only if the Sabbath was not counted. But here the reference is to the Sabbath within the Feast in general, whatever day of the Feast it may be.

well known, the Karaites refer to the booth: Take unto you the four plants in order to make a booth out of them. However, *ביום הראשון* cannot mean 'on the first day', since then we would not be dwelling full seven days in the booth, and again the erection of a booth on a holiday is forbidden as labour. Therefore *ביום הראשון* must necessarily mean 'before the first day', probably at the end of the day of preparation, i.e. on the fourteenth, approximately before the approach of the evening, unless the time does not suffice, in which case we must begin building earlier in the day, or when the fourteenth falls on a Saturday, in which case the booth can be put up even earlier (about the thirteenth), see Bashiatshi, *Adderet*, חג הסוכות, סדר חג הסוכות, בעת עשיית הסוכה . . . מצאנו בכתוב טעם הבי"ת כטעם קודם: ch. 2: כגון בי"ת באכלכם מלחם הארץ וכן טעם בי"ת ביום הראשון ר"ל קודם היום הראשון כי כתוב בסוכות תשבו שבעת ימים וראוי להיות הימים שלמים ועוד שאי אפשר להעשות במועד אף על פי שהוא דבר מצוה. ומהם פרשו הבי"ת בי"ת הקרוב כטעם ויהי בהיות יהושע ביריחו וכן ביום השבת יערכנו הכהן אשר הוא תחלת הערב הראשון ואמרו שראוי האדם בדעתו שלא יוכל לעשותו סמוך לערב ויעשהו קודם אין חשש וכן אם יהיה יום י"ד בשבת כמו שיקרה זה בקצירת העומר וחולתו. Then also: סוף דבר עשיית הסוכה ראוי להיות ביום ארבעה עשר (comp. also *Gan Eden*, fol. 65 c). Later Karaite sources dealing with the subject and accessible to us do not exhibit this opinion of 'Anan. It is very likely, however, that he insisted that the booth should be erected on the fourteenth, and when this day fell on a Saturday he postponed the Feast to the sixteenth. By analogy with the Feast of Passover and in view of his other eccentricities in interpreting biblical precepts it is not surprising that 'Anan should have ordained, in spite of the express statement of the Bible, that the Feast of Tabernacles should begin on the sixteenth. 'Anan's opinion was not merely a theory. We know from Kirkisani that some Karaites followed the 'Head of the Exile' in adding one day to the Passover as well as to the Feast of Tabernacles, while others added a day only to Passover and not to the Feast of

Tabernacles^{8a}. It goes without saying that this day was added when the first holiday fell on a Sabbath.

(2) The second attack of our Karaite (fol. 38–39 ro.) is directed against the Mishnah Rosh hashanah I, 4. 5. 9 and II, 7. 8, where the messengers dispatched and the witnesses arriving to fix the beginning of the month are permitted to desecrate the Sabbath, and where the well-known conflict between R. Gamaliel and R. Joshua concerning the Day of Atonement is set forth.⁹ Our Karaite sees therein a violation of the biblical prohibition which decrees death for the desecration of the Sabbath,¹⁰ and likewise a disregard of the commandment in Lev. 23. 4. Other Karaite authors, like Hadassi (*Eshkol*, 184, 5 ff.)¹¹ and Aaron b. Elijah (*Gan Eden*, 7 a), quote these passages, but for an altogether different purpose, namely, to remark that in ancient times the new moon was fixed on the basis of lunar observations. Aaron also adds that Saadya refuted these proofs through the assertion that while some people fix the new moon by observation Israel as a whole does it by calendar calculations.

(3) The Mishnah Rosh hashana IV, 4 serves our Karaite (fol. 39 ro., l. 6—39 vo., l. 2) as proof that in the conception of the misleaders,¹² i. e. the Rabbis, the new moon may fall on two days. I fail to find this Mishnah quoted in the works of other

^{8a} Ed. Harkavy, p. 318, l. 8: **ומנהם מן תאבע ראם אלנאלות פי כביסה**: אליום פי אלפסה ואלסכה נמיעא ומנהם מן תאבעה עלי דלך פי אלפסה ולם יתאבעה פי אלסכה.

⁹ But also here our author quotes the Mishnah II, 8, which has nothing in common with the theme treated by him.

¹⁰ **כל אלה תחליפות מחללות מות יומת**. 'opposites', recalls in form **תחליף** in the Hebrew Ben Sira (44. 17; 46. 12; 48. 8), but there it means 'compensation, substitution, substitute' (comp. also Kaufmann, *MGWJ.*, XLI, 337).

¹¹ The conflict between R. Gamaliel and R. Joshua is more fully told by Hadassi, alphabets 192 ש–194 ז, with all kinds of amplifications which may have had their source in some apocryphal Baraytot, and of which I intend to deal at length on some other occasion.

¹² **המרוחין** instead of **המריחין** (likewise fol. 40 vo. **שלוח** instead of **שליח**).

Karaite who contend against Saadya's proofs for the existence of two New Moon days.¹³

(4) Quite original is the criticism of Mishnah Rosh hashana IV, 9 (fol. 39 vo.-40 ro.), which is of a linguistic character. In the text of our Karaite there was here, as in some other manuscripts of the Mishnah (see Hirschfeld, p. 163), שלשה פעמים instead of שלש, and he attacks the Mishnah on the ground that שלשה is masculine (ושלושה בזכרים), as in Exod. 2. 2 and Gen. 18. 2, while פעמים requires שלש, as proved by Exod. 23. 14 (but here we find שלש רגלים and not פעמים, apparently our Karaite quoted from memory) and *ibid.* 34. 23. שלשה פעמים proves therefore a lack of knowledge of the Bible (שלושה פעמים לא כדעת). An anti-rabbinic controversy on philological grounds, if I may so express myself, is found elsewhere in the polemic treatise of Sahl b. Maṣliḥ against Jacob b. Samuel, the pupil of Saadya, in which orthographic and grammatical errors, as well as incorrect turns of speech, are pointed out in the style of his opponent (see *Kaufmann-Gedenkbuch*, p. 181). But it is not impossible that our Karaite author aimed to attack the blowing of the Shofar, which his co-religionists have been known to reject, but did not get to a criticism of the Mishnah cited, as we shall soon see in other cases.

(5) The next attack (fol. 40 vo.) is directed against some alleviations with regard to Sabbatical precepts on the part of the Rabbis, as expressed in the Mishnah Shab. XVI, 6-8 and XXIII, 1. Our Karaite cites here the Mishnah only, without adding his criticism on it, but that is sufficiently clear from the mere quotation of the text. The reproach made against the Rabbis that they make light of the Sabbath and permit many things that are forbidden on that day, is a standing theme in the Karaite controversies, beginning with Kirkisani. The latter cites also the Mishnah XXIII, 1 adduced by our Karaite (שואל 'אדם מחבירו כרי יין וכו'), and refers Jer. 9. 5 to it (sect. I, ed. Harkavy, p. 287; then also in the second text edited by Hirsch-

¹³ Comp. on this point Mann, *JQR.*, N. S., IX, 141, where also Hadassi (*Eshkol*, alphabets 197 ח-ט) should be added.

feld, which will be discussed further below). It is cited also by Salmon b. Jeroḥam in his manuscript treatise against Saadya, chapter 14.

(6–7) The next two points (fol. 41) belong to the domain of dietary laws, dealing as they do with the enjoyment without slaughter of the after-birth (שליא), respectively of an embryo (שלי, among the Karaites גרצין or קבוט), and of the fat tail (אליה), together with the kidneys and the lobe of the liver (יותרת הכבד), which the Rabbis permit but the Karaites forbid. With reference to the first point our Karaite quotes the Mishnah Hūl. IV, 10. 8; with regard to the second point, however, he adduces no text, but simply says: והאליה והכליות [ויותרת הכבד] אשר התירו. This is against the Torah, which forbids the enjoyment of these things in Lev. 11. 39 and 9. 19. It is well known that the relish of an embryo forms one of the points of difference between the Rabbis and the Karaites. The former permit it in accordance with the principle עובר ירך אמו, and even without slaughter (שחיטת אמו מטהרתו); nay, even the prohibited parts of an animal, such as the fats, the tendon, &c., are permitted in this case, in consonance with the rule בבהמה אותה תאכלו, that everything found in a purely slaughtered animal is allowed (see Hūl. 74 a ff. and comp. in addition my conclusions in *Kaufmann's Gedenkbuch*, p. 176 ff.). The Karaites, on the other hand, forbid the embryo, since children not yet born are called בנים in accordance with Gen. 25. 22 and Ruth 1. 11, and therefore the prohibition of ואותו ואת בנו (Lev. 22. 28) holds good here. But they go even further and assert that everything found in an animal, be it sperm or a piece of flesh or even water, is prohibited, and that this prohibition is likewise to be derived from Lev. 11. 39 (וכי ימות מן הבהמה). They probably interpret this verse in such a way that the death of one part of an animal reduces the whole animal to a carcass.¹⁴ In a similar manner the Rabbis

¹⁴ I found this verse applied to our prohibition nowhere else except in Hadassi (alphabets 308) : לכן הזרע או חתיכת בשר הנמצא ברחם : . . . הבהמה היא כמעוברת נחשבת יען כי רוחו מניה וביה והיא כנשחטת עם

differ from the Karaites with reference to the enjoyment of the fat of the tail, the kidneys, and the lobe of the liver, since the Karaites hold that all the parts which are burnt on the altar at the sacrifice are comprised under חֶלֶב, and hence are forbidden. Our Karaite proceeds to quote Lev. 9. 19, where all the three prohibited parts are mentioned consecutively in one verse.

Both these points of contention form another important theme in Karaite anti-rabbinic polemics. Already Kirkisani (sect. I, ed. Harkavy, p. 291) cites the contents of both Mishnahs adduced by our Karaite and claims that the Rabbis, together with the enjoyment of an embryo, permit also seven other prohibited substances, namely, a dead animal (since in their opinion the embryo may be eaten without special killing), blood, fats, אֹתוֹ וְאֵת בָּנוֹ, שְׁחִיטַת נֶכְרִי, אֶבֶר מִן הַחֵי, and the tendon.¹⁵ Again, the enjoyment of forbidden fats forms one of the principal arguments in the polemic between Saadya and the Karaites, see *Gan Eden*, fol. 96 b: . . . וְרֹאשׁ הַחֹלְקִים הוּא סַעֲדִיא הַפִּיתוּמִי אִשֶּׁר עָמַד לַחְלוֹק בְּנִגְדַּת דַּעַת . . . הַקְּרָאִים וְחִכְמֵינוּ ע"ה כִּבְר שְׁבָרוּ מִלְתַּעֲוִיתוֹ (comp. also *Eshkol*, alphabets 231-3, and *Adderet*, שְׁחִיטָה, chaps. 18-20).

(8-10) The last three points contained in our fragment (fol. 36 ro.) relate to the laws of purity. Our Karaite quotes first the Mishnah Nidda, III, 6 (הַמְּפֹלֶת יוֹם אַרְבָּעִים אֵינָה חוֹשֶׁשֶׁת), then *ibid.*, IV, 6 (הַמְּקֻשָּׁה בְּתוֹךְ שְׁמוֹנִים שָׁל נִקְבָּה וְכו'), winding up with: וְאִשֶּׁר אָמְרוּ כָּל הַנָּשִׁים בְּכֻלָּן זָבוֹת אִשֶּׁר לֹא צִוּוּ: . . . יִהְיֶה בֶן חֲלִילָה לֹא לִמְרָשָׁע וְשָׂרִי מַעוֹל. His objection to the Mishnah is not indicated in the fragment, as is the case in dealing with some other points of difference. With reference to the first

בָּנָה וְאִסּוּרָה עָלֶיךָ: לִמְעַן כִּי נִפְשׁוּ וּרְחוּ בּוֹ וּבָנָה חָשׁוּב וּמִשּׁוּם אֹתוֹ וְאֵת בָּנוֹ לֹא תִשְׁחָטוּ וְגו' וּמִשּׁוּם כִּי יָמוּת מִן הַבְּהֵמָה אִשֶּׁר הִיא לִבָּם לֹאכְלָה וְגו'. 'Anan, as is known, derived from this verse, in an exquisite way, the prohibition to kill an animal about to die (בִּסְכּוּחַס or מְסֻכְכֵּת), see *REJ.*, XLV, 57-9; but already Daniel Kumisi and Kirkisani expressed their opposition to it, see *JQR.*, VIII, 685.

¹⁵ This number varies with different Karaite authors from 6 to 8, see *Kaufmann-Gedenkbuch*, p. 176, n. 1, where the reference to Hadassi (alphabets 239, ל-ג), who likewise has 8, should be added.

Mishnah it must be noted that in the opinion of the Karaites, if a human form is perceived in the abortion, the miscarrying woman is subject to the same law of impurity as a woman lying-in, and if in this form the male cannot be differentiated from the female the woman must remain unclean for eighty days (see *Gan Eden*, fol. 114 b), hence the state of uncleanness does not depend upon the days of pregnancy. The second Mishnah cited above expresses the opinion of the Rabbis that conjugal communion with a woman lying-in is allowed within the 33 or, as the case may be, 66 days, against which the Karaites protest violently (comp. Geiger, *Jüd. Zeitschrift*, I, 51; II, 27; *Nachgelassene Schriften*, III, 316, and קבוצת מאמרים, my edition, p. 89). Finally, with regard to the last point, it likewise forms debatable ground between the Rabbis and Karaites, the former allowing the menstruous woman to count שבועה נקיים, while the latter consider this obligatory only in the case of a woman afflicted with a flow, see e. g. *Gan Eden*, fol. 113 d: . . . והרבנים עצמם שבו ממה שנזרה התורה וממה שיש להם בהעתקה ושמו כל הנשים בחזקת זכות שסופרות שבועה ימים נקיים ואין להם לא נדה ולא זבה קלה קטנה כפי דתם והם עוברים על מאמר לא תוסיפו על הדבר אשר אנכי מצוה אתכם ולא תגרעו ממנו. It is therefore unnecessary to emend with Hirschfeld כל הנשים into כל הנדות.

From our analysis it results that we are not dealing here with a criticism of the Mishnah, but rather with a fragment of a polemical, anti-rabbinic work. Next in line is to determine the time and the author of the fragment. As regards the time, Hirschfeld places it in the ninth century, supporting this view by the following two proofs: (1) the handwriting of our fragment is older than that of other manuscripts dating from 1004, 1019, and 1030; (2) the Karaites began to write Arabic in the tenth century, hence our fragment which is in Hebrew must be older than that. However, both these reasons are precarious. Assuming that the handwriting of our fragment is older than that of the above-mentioned manuscripts, then it should only be younger than the eleventh century, and could therefore date from the

tenth century. But, judging from the present state of Hebrew paleography, it is extremely difficult to determine exactly the time of a Hebrew manuscript (see on this point Marx in this REVIEW, VI, 176). Still less convincing is the second proof. It is true that the Karaites began to write Arabic in the tenth century, and the first known Karaite work written in Arabic is the *Kitāb al-'anwār*, composed by Kirkisani in the year 937; therefore if we have before us a Karaite work in Arabic we cannot place it before the tenth century. But the fact is that even after that the Karaites did not cease to write Hebrew. Thus, for example, Salmon b. Jeroḥam, Sahl b. Maṣliāḥ, and Yefet b. 'Ali, all authors of the tenth century, wrote simultaneously in both languages. Moreover, we have seen above that the point dealing with the *deḥiyyot* is directed against Saadya, and for this very consideration cannot date from the ninth century. Still, I also am of the opinion that it is quite old. First, because the tetragrammaton is written יהוה (fol. 36) and not יי¹⁶ as usual, and then because 'Anan is mentioned without any honouring epithet. In this way he is mentioned elsewhere only by Benjamin Naha-wendi (משנת בנימין, fol. 2 c; comp. Harkavy, *Stud. u. Mitt.*, VIII, 127), although with the eulogy רצ"ל. But already Kirkisani, although he mentions him quite frequently by name only (e.g. sect. I, ed. Harkavy, p. 279, l. 10, 280, l. 17, 284, l. 24), yet in most cases he gives him the title ראם אלנאלות, i.e. exilarch. Yefet b. 'Ali quotes him once (*REJ.*, XLV, 186) by name only, but with the eulogy רצ"י אללה ענה, another time simply as ראם אלנאלות (*ibid.* 179), and then also as ר' הג' ענן ז"ל (commentary on Cant. III, 2, ed. Bargès, p. 42). Jacob b. Simon, the translator of Jeshua's ספר העריות, names him ר' ירמיהו אל (ed. Markon, pp. 100 and 104), but already Hadassi insists on naming him by title ראש הגולה נשיא ישראל (alphabets 23 ז, 147 מ,

¹⁶ The writing יהוה is found also in some epigraphs of Karaite Bible rolls and Bible codices from the Crimea (see Harkavy-Strack's *Catalogue*, pp. 26, 32, 99, 237, 238), but here there is no telling which is genuine and which is false.

236 י). Our fragment therefore is a product of the eleventh, or perhaps already of the tenth century.

Hirschfeld also comes to a conclusion as to the identity of the author of the fragment. According to him, it is no other than Nissi b. Noah, whose name he even placed at the head of his introductory remarks on the fragment. As is well known, Pinsker identified Nissi with Aḥa, a reputed pupil of 'Anan, which still places him in the eighth century. Others, like Graetz, bring his date down to the ninth century. It was P. F. Frankel who believed he had established the fact that Nissi lived after Hadassi and made use of the latter's *Eshkol*. Now I agree with Hirschfeld that Nissi's dependence on Hadassi is far from proved, indeed, I believe I am able to establish quite the contrary. For Nissi says (in Pinsker, pp. 12-13) that the teacher must possess twelve qualities, the last three of which are as follows: והי' שידבר דבר דבור על אפניו ואל יקשה את לבו ואל יעז את פניו; והי' א שיתבונן במצות במשפטים ובחקים ויהיה אין לעשות ולהקים; והי' ב שיחיה בקי במשנה בתלמוד ובהלכות וילמוד תוספות והגדות. Hadassi, too, enumerates these qualifications (alphabets 134 פ ff.), but here they amount to only ten in number, the tenth being as follows: כתם מעלה העשירית שיחיה בקי בכל תורות ובמצות וחקים ומשפטים ודקדוקי שאלות ותשובות להורותם ולהטעיםם ולשמרם אין ורץ יהיה תמיד לעיניך. Hadassi evidently omits altogether Nissi's tenth quality, while he combines the eleventh and twelfth into one, retaining their characteristic expressions (אין, שיחיה בקי). It is certainly easier to assume that twelve qualities may be reduced to ten by the omission of the one about the teacher being conversant with the Mishnah, Talmud, Halakot, &c., than the reverse. Especially so, since Hadassi is always set on number ten, as, for instance, ten promises to be fulfilled with regard to the Holy Land and Israel (129 ע), ten proofs for the authenticity of the Torah (130 ח), ten duties of pupils towards their teacher (134 י), ten degrees of dignity in Israel (135 ל), ten articles of faith, &c. All this is probably due to the fact that his book is based on the Ten Commandments, and this fundamental idea he may have derived likewise from Nissi. That Hadassi fails

to quote Nissi anywhere matters nothing, for he was not at all particular about naming his sources, referring to his Karaite predecessors with the general phrase *בי מספריהם נתעשרנו*.¹⁷ Thus Nissi lived before the twelfth century, and this agrees with Harkavy's discovery (mentioned in *Stud. u. Mitt.*, VIII, p. vii) that he lived in Persia about 300 years after 'Anan, hence in the eleventh century. What a pity that Harkavy did not communicate the text he discovered !

Thus neither Nissi nor our fragment belong to the ninth century. But nevertheless let us examine Hirschfeld's proofs for Nissi's authorship. The similarity between Nissi's autobiography, as Hirschfeld calls it, and our fragment is supposed to consist in the following three points: (1) Nissi recommends the study of punctuation, accentuation, defective and plene [in the Bible], as they are in vogue among the Babylonians (comp. Pinsker, p. מא : ולאף נקודות : מא . . . וללמוד . . . שצריך האדם . . . למוד), and a goodly part of our fragment is provided with the Babylonian punctuation; (2) Nissi recommends the study of the Mishnah, Talmud, and Halakot, as well as the great and small Toseftas (*ibid.*: ולהבין במשנה ובתלמוד ובהלכות ובתוספות גדולות ובתוספות קטנות; see also above concerning the twelfth qualification of the teacher), and the author of our fragment occupies himself likewise with the Mishnah and calls the Talmud, Halakot; (3) Nissi considers it a good point that he writes in Hebrew (*ibid.*, p. 35 : ביארתים [ר"ל את המצות והחקים] בשפה ברורה בלשון צחות בדברי העבריים), (ולא בלשון אשורים וארמים שהוא לשון חרפה לאנשי הגולה), and also our fragment is written in Hebrew.

¹⁷ Comp. Bacher, *MGWJ.*, XL, 126.

¹⁸ Under great and small תוספות Nissi understands perhaps the Tosefta and Baraytot. In talmudic-midrashic literature the term משניות גדולות is not wanting, e. g. Horayot end, as well as Kohelet rabba on 1. 5 and 2. 8. Right there occurs also the form תוספות employed by Nissi, so Pal. Peah II, 6 (fol. 17 a, l. 13 from below); Lev. r., ch. 22 and 30; Cant. r. to 1. 15 and 6. 8, &c. (comp. Lewy, *Ueber einige Fragmente aus der Mischna des Abba Saul*, p. 4).

However, these three proofs are hardly conclusive: (1) The Babylonian punctuation cannot be characteristic of any one author, since in recent times, especially among the Genizah fragments, more and more post-biblical texts are found with this punctuation;¹⁹ (2) all Karaites quote extensively from the Mishnah in their anti-rabbinic polemics, especially Salmon b. Jeroḥam in his controversy against Saadya and Hadassi in his *Eshkol Hakkofer*. Nissi does not call the Talmud, Halakot, since he says twice תלמוד והלכות expressly, thus differentiating them from one another. Nor does our author call it so, for the halakot which he quotes do not, as Hirschfeld asserts, designate the Gemara, but, as we have seen above, the Hebrew version of the *Halakot Pesukot*;²⁰ (3) still less can the Hebrew language of the fragment be a proof for Nissi's authorship, since Karaites, as pointed out above, did not cease to write Hebrew even after the commencement of the Arabic period.

Judging then from the condition of our fragment no conjecture is possible as to its author. Nevertheless we are thankful for its publication by Hirschfeld. Perhaps chance will yield us, among the treasures of the Genizah, further fragments of this quite old anti-rabbinic work, and then some of the enigmas attached to it may be unravelled.

II.

Still less does the title of Hirschfeld's article fit the second text published therein. This is the end of chapter 14 and the beginning of chapter 15 (الباب الخامس عشر) of a polemic treatise.

¹⁹ MS. Vat. 66 contains even a Sifra with Babylonian punctuation, see *JQR.*, N. S., VI, 179 and *OLZ.*, XXI (1918), 53.

²⁰ Since this version, as I have proved elsewhere (*RÉJ.*, LXIII, 235), had arisen in Palestine, we might assume that also our Karaite author lived there, the more so as Palestine was a centre of Karaite learning during the second half of the tenth and the first half of the eleventh centuries. But against this assumption stands the Babylonian punctuation employed by the author, if we accept the statement of Hirschfeld that the fragment is an autograph.

It appears that Saadya's deductions about the necessity of oral teaching and the rejection of analogy (قياس) were quoted in the former and refuted in the latter chapter.²¹ I was the first to call attention to this text (*Steinschneider-Festschrift*, p. 210), and then, what Hirschfeld seems to ignore, I published a considerable part of chapter 15 (*ZfHB.*, III, 175-6; comp. *ibid.*, X, 43 ff., and *JQR.*, VIII, 685). I proved on internal evidence the connexion between this text and the second section of Kirkisani's *Kitāb al-'anwār*. First, it is this second section that deals among others with the method of employing analogy,²² then the style and manner of expression are those of Kirkisani,²³ and, finally, all the references of the author to his previous deductions are found in the first section published in Harkavy. Comp. e.g. our text, ed. Hirschfeld (= Hi.), p. 187, l. 1: ومثل ما حكيناہ . . . عنهم في اطلاق نسج حيط وكتابة حرف وحرفين وغير ذلك ما ذكرناه وما ونازاهو ان يכתב אלאנסאן פי יום אלסבת חרפא וחורפין . . . וכדלך אנאזו وكذلك: 3: Hi. *ibid.*, l. 3; ان ינסז אלחאיד פי אלחוב זיטא או זיטין אלך, ما ذكرناه من تحريمهم ان يحمل الانسان ريقه في فيه (فمه 12) اربع اذرع, וכדלך חרמו אן יחמל אלאנסאן ריקה פי: 21: Ha., p. 288, l. 21, and then Ha., p. 288, l. 21: وقد ذكرنا ما: 6: Hi. *ibid.*, l. 6: جرى بين اليعازر بن هورقانوس وبين سائر الربانيين في ذلك الخلاف التحي, and Ha., p. 299, l. 20, where the story about Eliezer ben Hyrkanos is told in detail (comp. also p. 283, l. 7); Hi., *ibid.*, l. 14: . . . على انا قد قدّمنا ايضاً ذكر ما ابطلوه من بعض الصلوات الواجبة: 14: l. 14.

²¹ The beginning of the partly preserved chapter 14 may be reconstructed from the refutation in chapter 15, and indeed the refutation of this unpreserved beginning goes up to fol. 49 ro., l. 5. Apparently the Karaite, in his refutation, quotes Saadya's proofs almost verbatim.

²² The superscription of this section is (see *Steinschneider-Festschrift*, p. 196): אלמקאלה אלחאניה פי אינזב אלבחת ואלנזר ואתבאת חנה: (p. 196) אלעקל ואלקיאם.

²³ Of the numerous examples let me cite one, namely, that the Christians maintain God is a *جوهر ثلثة اقانيم*, an expression that occurs in our text (p. 187 below), as well as in the first section, ed. Harkavy, p. 305, l. 21.

ומן דלך אנהם : 22 l. 1, p. 286, and Ha., p. 286, l. 22 : *وما اوجبه فما (فيما) لا يجب*. אסקטו אלצלאתה מן ספר תהלות ונעלות ממא אלפיה הם אלך. In addition, there is the passage about Abu 'Isā and Yudgān, &c., quoted by me in *Steinschneider-Festschrift*, p. 219. All this evidence makes Kirkisani's authorship a certainty.

It is true that a later author of the sixteenth century, namely, Moses Bashiatshi, quotes a passage from our text and labels the author thereof ע"ה יוסף הרואה רבי' המאור הגדול רבי', i. e. Joseph al-Baṣīr. But I have pointed out that Bashiatshi confused al-Baṣīr with Kirkisani also in other places, and quoted passages word for word from the *Kitāb al-'anwār*, which he calls in Hebrew freely המאור הגדול (once also ספר האורים),²⁴ in the name of al-Baṣīr (see *Steinschneider-Festschrift*, l. c.). This confusion, however, is manifested already in the chain of tradition which Mordecai b. Nisan, in his דר מרדכי, chapter 9, took over from the מטה אלהים of the above-named Moses Bashiatshi, and which goes back to Yefet v. David ibn Ṣagīr (first half of the fourteenth century). Here we find such blunders as the following (ed. Vienna, fol. 11 b): . . . והוא (ר"ל רב נח) העתיק לרב שלמה בן ירוחם : . . . ולרב יוסף בן נח ולרב יעקב בן יצחק הקרקסאני . . . ובזמניהם היה רב סעדיה נאון ז"ל הפיתומי והוא היה תלמידו של רב שלמון בן ירוחם ורב יוסף השינו ונמצאו יחד שניהם בזמן אחד והקשה עליו ר' יוסף והכריח לו בטענותיו כאשר מזכיר בספרו בספר המאור וחבר (שחברו r.) בשנת ד"א תר"צ ליצירה והם העתיקו לרב דוד בן בועז . . . ולרב יעקב בן רב יוסף בן אברהם הבורצרי ולרב יוסף הרואה בן רב יעקב הקרקסאני והוא חבר ספר מצות גדול על כל הפרטים והדרוקים יפה עד למאד והעתיקה לרבינו שלמה הנשיא וכו'. It is difficult to find oneself in this confusion which bristles with chronological impossibilities, but this much may be gathered that Kirkisani, who is named rightly in the beginning Jacob b. Isaac, is made a contemporary of a certain Joseph who polemised against Saadya in his ספר המאור composed in the year 930. By this Joseph, however, is meant Joseph al-Baṣīr who, as we now know, lived a century

²⁴ Thus the *Kitāb al-'anwār* is called ספר האורים also in the Hebrew translation of Levi b. Yefet, see Pinsker, p. 90 (incorrectly, *ibid.*, p. 193).

after Kirkisani, see the colophon of Elijah b. Baruch to his copy of Salmon b. Jeroḥam's polemic treatise against Saadya, MS. Pinsker 27³ (communicated in Bardach, *מזכיר לבני רשף*, p. 37): . . . וישטמוהו (ר"ל את הפיתומי) בעלי חצים ברורים ממשכילי בני מקרא רבים סלמון בן ירוחם רבו . . . וגם חברו של פיומי רבנו יוסף הרואה תלמידו של רבינו סלמון רבו בספרו המאור המחובר בשנת ר"א שש"ע (*sic*) לציירה וכו'. On the other hand, mention is made in the above-named chain of tradition of a Joseph ha-Roeh b. Jacob Kirkisani, the author of a great code of laws, who may be the well-known Kirkisani, known in later sources by the name of Joseph (instead of Jacob), but not al-Baṣīr, who was b. Abraham.²⁵ Even more confusing are the data in Simḥa Isaac Lutzki's *ארה צדיקים*. In the chain of tradition on fol. 21a, which no doubt is derived from that of Mordecai b. Nisan, Jacob b. Isaac al-Kirkisani is said to have taken over the law from Salmon and transmitted it to his son Joseph ha-Roeh, who composed the *המאור הגדול* in the year 910. But in the list of the learned on fol. 21b the following are enumerated separately: Jacob b. Isaac al-Kirkisani, then, two lines below, Joseph b. Jacob al-Kirkisani, and in addition also Joseph ha-Roeh ha-Kohen b. Abraham. In the list of Karaite writings again the *אורים* is ascribed to Joseph b. Jacob al-Kirkisani (fol. 23a), the *המאור הגדול* and a *מצות ס'* to Joseph ha-Roeh ben Jacob al-Kirkisani (fol. 24b), and likewise a *מצות ס'* to Joseph ha-Roeh ha-Kohen b. Abraham. Thus any one who in the fixation of older Karaite authors and their

²⁵ Possibly al-Baṣīr is meant by *רב יוסף בן אברהם הבוציר*, *מבוציר* having been formed from *אלבציר*, while *רב יעקב* is due to a misunderstanding of *אבו יעקב*. In his *ספר עריות* (ed. Markon in *הקדם*, III, 57-78) Moses Bashiatshi calls al-Baṣīr mostly *רב יוסף בן אברהם הרואה*, but once also *רב אברהם הבוציר* (p. 64, comp. with p. 73). On p. 67 *המאור הגדול* *רב יוסף הרואה* is named together with an otherwise unknown *רבי יעקב הבוציר*. I presume that here too the last named had arisen from *אבו יעקב אלבציר*, and that Bashiatshi had divided one person into two from sheer ignorance. This is further proof for the confusion which is manifested in his writings concerning the older Karaite authors.

works relies on the data of their later co-religionists is sure to lose himself in a hopeless labyrinth.

In spite of all this, Hirschfeld follows the data of Moses Bashiats̱hī and ascribes the text edited by him to al-Baṣīr. His proofs against Kirkisani's authorship are as follows: (1) Some points mentioned in our text are found also in the first section of Kirkisani's work; why does not the author of the fragment refer to this section, but to detailed discussions which are to follow later? (2) Our text tells of Yudgān that he considered himself a Messiah, while Kirkisani states that he was so considered by his pupils only. (3) The tone of our text, in which some harsh expressions are used against Saadya and the Rabbis (p. 186, l. 4 from below: *ويجب على الغيومي ان يستحير من ذكر هذا الباب*; p. 187, l. 9: *(بل هو فضيحة عليهم براسهم*), does not fit in with the otherwise mild tone of Kirkisani, but rather suits a contemporary of Yepheth b. 'Alī,²⁶ who frequently employs such harsh and insulting expressions against his rabbinic opponents.

But all these proofs by Hirschfeld are not conclusive. Least of all the first, for, as we have seen above, the author of our fragment does refer to what precedes, and all this is indeed found in the first section of the *Kitāb al-'anwār*. But when he refers at the same time also to subsequent discussions, it is not at all surprising, for in the first section he treats all these subjects in a casual way only, dismissing summarily the divagations of the Rabbis and their false conceptions; the details, however, were reserved for a special section, and hence, for example, everything concerning the Sabbath was reserved for section V. That is why we read in section I, where he makes the above-mentioned reproach to the Rabbis concerning the prayers (p. 287, l. 3): *וסנסתופי הדיא אלכלאם באלחנה פי מוצעה*. Likewise, for instance, p. 294, l. 4, with regard to the search of the fresh ears of barley: *ואונבו טלב אלאביב . . . וסאחכי בעין מא פי כתבהם ממה יתבת אלאביב*

²⁶ That al-Baṣīr was a contemporary of Yefet is not at all proved. The latter belongs to the end of the tenth century, while al-Baṣīr composed his legal code in 1036-7.

ודלך פי אלמקאלה אלסאבעה והי אלתי נתכלם פיהא עלי רווס אלשהור ואלאביב.²⁷ Of even less importance is the second proof which amounts to quibbling, and hardly needs refutation. Finally, as to the third point, while it is true that Kirkisani's tone is mild on the whole, yet harsh expressions are not wanting. It is sufficient to read the first chapter of the first section, where he reproaches the Rabbis with the ruin of religion (מקאט אלדין נמלה), p. 286, l. 15), deceit (p. 287, l. 24), ignorance and blindness (p. 290, l. 8), ridiculousness (p. 295, l. 18, where we should read סכרה instead of סכנה), &c. With reference to Saadya he employs also the expression פליחה, which occurs likewise in our fragment (see my *The Karaite Literary Opponents of Saadiyah Gaon*, p. 9). Apparently also this proof against Kirkisani's authorship lacks proper support.

There is, however, also an external proof that our fragment is not from the pen of al-Baṣīr. The *Kitāb al-anwār* of Kirkisani was divided into sections (מקאלה), and every section into chapters, each one of which had באב at its head, exactly as in the case of our fragment. In al-Baṣīr's legal code, entitled *Kitāb al-'istibṣār*, which was likewise divided into sections (מקאלה or כלאם) and chapters, every chapter bore the title פצל. A fragment of the *Kitāb al-'istibṣār* is found in MS. Brit. Mus. 2576¹ (Cat. II, No. 591), and here we read at the end: وكذلك الكلام فيما أُمليت من القول في الاعتدال والاييب والرجاح ولعل ان املى الكلام في السبت . . . Joseph al-Baṣīr, as is well known, was blind, and therefore dictated (أُملى)²⁸

²⁷ Comp. also the general remark of Kirkisani, where his procedure in mentioning rabbinic deviations and later detailed discussions thereof is formulated as follows (p. 295, l. 21): וכדלך כלמא דכרנאה פסאדה מן: הדא אלבאב פאנמא נפעל דלך לאנא לא נדכרה פי מוצע אכר הדא פימא לא יטול פיה אלכלאם ממא לים בדאכל פי אלועאיא פאנא נוכר אלקול פיה אלי אלמקאלה אלתאניה ואלתאלתה פנדכר כל באב מן דלך פי מוצעה.

²⁸ Numerous passages from al-Baṣīr's *al-Muḥṭawī*, where this expression occurs, are cited and discussed by Goldziher (*REJ.*, XLIX, 227, n. 1).

his work to his pupils. Considering this characteristic expression and various traits of a different nature, which will be treated elsewhere, I recognize now the connexion with the *Kitāb al-'istibṣār* of a Genizah fragment described by me in the *Karaite Literary Opponents*, p. 56, No. 20 (Ar. T.-S. 30), which I could designate there only as part of an old Karaite legal code. Also in this fragment we read: אָנא קד ביינא פימא אמלינאח מן: אלכלאח פי אלדנאנ . . . עלי מא אנת תנדה משהורא פי מקאלה: מפרדה אמלינאח קדימא אלפצל אלזאמס עשר פי קולה ואת אלה. e.g. פצל, תשקצו מן העוף. Besides this the author of this fragment cites his כתאב אלשכוך. I conjecture therefore that the fragment MS. Br. Mus. 2576², which deals with leprosy and other laws of uncleanness, and where the author cites his *كتاب الشكول* (see Cat., *l. c.*, p. 181 f.), is likewise part and parcel of the *Kitāb al-'istibṣār*, and that instead of *كتاب الشكول* we should read *كتاب الشكوك*. But also in this fragment the individual chapters bear فصل as title, e.g. فصل سابع فى الصراعت وكيفية حكمها فى الجالية وما يتصل بذلك.

Thus, for various reasons, the fragment edited by Hirschfeld cannot come from al-Baṣīr, but must be considered as part of Kirkisani's work. Here too, nevertheless, thanks are due to the editor for the publication, since every fragment from Kirkisani greatly enhances our knowledge of early Karaism.

SAMUEL POZNAŃSKI.

Warsaw.

Mention is also made there of a pupil of al-Baṣīr, namely Abu Gālib Ṭābit, to whom his teacher dictated, and the wrong notions concerning him are righted.